

OCT. 7. 2005 3:01PM

KIRTON & MCCONKIE

RECEIVED
CENTRAL FAX CENTER

NO. 182 P. 1

OCT 07 2005

N. Kenneth Burraston

**KIRTON &
McCONKIE**

TELEPHONE (801) 328-3600
FACSIMILE (801) 321-4893

A PROFESSIONAL CORPORATION
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P.O. BOX 45120
SALT LAKE CITY, UTAH 84145-0120

FACSIMILE TRANSMISSION SHEET

DATE: October 7, 2005

BILLING #: 12439.50

TO: Commissioner for Patents

FAX #: (571) 273-8300

FROM: N. Kenneth Burraston

3 NUMBER OF PAGES INCLUDING COVER SHEET

COMMENTS: Transmitted herewith is a Request for Reconsideration of Holding of
Abandonment:

App. No.: 09/810,871

Confirmation No.: 7274

Applicant: Eldridge et al.

Filed: March 16, 2001

TC/A.U.: 2833

Examiner: Alexander Gilman

Docket No.: P70-US

**IF YOU DO NOT RECEIVE ALL OF THE PAGES,
PLEASE CALL OUR OFFICE AT (801) 328-3600 AS SOON AS POSSIBLE.**

This is a confidential communication and is not to be delivered or read by any person other than the addressee.
Facsimile transmission is not intended to waive the attorney-client privilege or any other privilege.
If this transmission is received by anyone other than the addressee, the recipient is requested to call Kirton & McConkie
collect at (801) 328-3600, and to immediately return this document to Kirton & McConkie by United States mail.
Kirton & McConkie guarantees return postage.

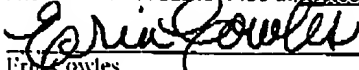
OCT. 7. 2005 3:01PM

KIRTON & MCCONKIE

NO. 182 P. 2

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at (571) 273-8300 or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 7, 2005.


Erin Cowles

Ref. No.: 12439-0050

**RECEIVED
CENTRAL FAX CENTER**

OCT 07 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/810,871 Confirmation No. 7472
Applicant : Eldridge et al.
Filed : March 16, 2001
TC/A.U. : 2833
Examiner : Alexander Gilman

Docket No. : P70-US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION
OF HOLDING OF ABANDONMENT¹**

To Whom It May Concern:

Applicants respectfully request reconsideration and withdrawal of the holding of abandonment stated in the Notice of Abandonment mailed on August 10, 2005 in the above-identified patent application (hereinafter the "Notice of Abandonment") on the grounds that there is no abandonment in fact. (See MPEP § 711.03.)

The only grounds for abandonment stated in the Notice of Abandonment were "Applicants failure to timely file a proper reply to the Office letter mailed on 2/03/2005." Applicants filed, however, a timely and proper reply to the Office letter of February 3, 2005, which was a final Office Action (hereinafter the "Office Action") rejecting all of the claims pending in the application and setting a three month shortened statutory period for responding to the Office Action. Applicants responded to the Office Action by filing a Notice Of Appeal, which is a proper response to a final Office Action. (37 CFR § 1.113(c).) With the Notice of Appeal, Applicants also filed a Petition For Extension Of Time requesting three additional

¹ The Notice of Abandonment, Notice of Appeal, Petition For Extension Of Time, and Office Action referred to in this paper are available on PAIR. Applicants assume these documents are readily accessible to PTO personnel and have therefore not attached copies of the documents to this paper. Applicants will, however, provide copies of these documents upon request.

OCT. 7. 2005 3:02PM

KIRTON & MCCONKIE

NO. 182 P. 3

Appl. No. 09/810,871

Request dated October 7, 2005

Reply to Notice of Abandonment of August 10, 2005

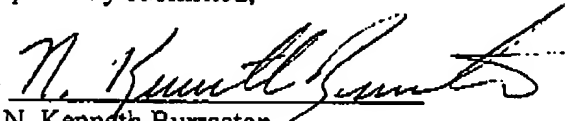
months to respond to the Office Action, and both the Petition For Extension Of Time and the Notice Of Appeal included properly signed certificates of mailing dated August 3, 2005. (See 37 CFR § 1.8.) Applicants response was thus timely.

Applicants thus in fact filed a proper and timely response to the Office Action. The holding of abandonment was therefore in error and should be withdrawn.

Respectfully submitted,

Date: October 7, 2005

By



N. Kenneth Burraston

Reg. No. 39,923

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City, Utah 84111-1004
Telephone: (801) 323-5934
Fax: (801) 321-4893